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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,548

11/24/2003

Jonathan Richard Thorpe

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

CAO, PHUONG THAO

ART UNIT

PAPER NUMBER

2164

NOTIFICATION DATE

DELIVERY MODE

04/21/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/720,548	THORPE, JONATHAN RICHARD	
	Examiner	Art Unit	
	Phuong-Thao Cao	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-13,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 is/are rejected.
- 7) ☒ Claim(s) 1,2,4-8,10-12,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to Amendment filed on 1/17/2008.
2. Claims 1, 2, 4-8 and 10-13 have been amended; claims 17 and 18 have been added; and claims 3, 9 and 14-16 were previously cancelled. Currently, claims 1, 2, 4-8, 10-13, 17 and 18 are pending.

Information Disclosure Statement

3. The Information Disclosure Statement (IDS) filed by Applicant on 11/14/2007 has been received and reviewed. A copy of the reviewed IDS is enclosed with this office letter.

Response to Amendment

4. Amendments to claims are effective to overcome the claim objections and the 112 rejection in the previous office action. Therefore, the previous objections and rejection have been withdrawn.

Response to Arguments

5. Applicant's arguments, see Remarks, pages 9-13, filed 1/17/2008, with respect to claims 1, 2, 4-8 and 10-13 have been fully considered and are persuasive. The prior art rejection of claims 1, 2, 4-8 and 10-13 has been withdrawn.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The "storage medium" as recited in claim 13 is not defined/described in the specification.

Claim Objections

7. Claims 1, 2, 4-8, 10-13, 17 and 18 are objected to because of the following informalities:

Regarding claim 1, the term “histograms” in phrase “the composite color histograms” in line 21 should be in singular form “histogram”, and the term “image” in phrase “the user selected video image” at the end of the claim should be in plural form “images”.

Regarding claim 7, the step of “forming a color histogram...” in line 14 must be separate from the previous step of “specifying a combination...” at least by a punctuation mark (,) or connection term, and the term “image” in phrase “the user selected video image” at the end of the claim should be in plural form “images”.

Regarding claim 13, the step of “forming a color histogram...” in line 15 must be separate from the previous step of “specifying a combination...” at least by a punctuation mark (,) or connection term, and the term “image” in phrase “the user selected video image” at the end of the claim should be in plural form “images”.

Regarding claim 18, the term “combinations” in phrase “the specified logical combinations” at the end of the claim should be in singular form "combination".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 13, "a storage medium" as claimed may be directed to non-statutory subject matter since it is not defined or described in the specification.

Allowable Subject Matter

10. Claims 1, 2, 4-8, 10-12, 17 and 18 would be allowable if rewritten to overcome the claim objections, set forth in this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong-Thao Cao whose telephone number is (571)272-2735.

The examiner can normally be reached on 8:30 AM - 5:00 PM (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuong-Thao Cao
Art Unit 2164
April 10, 2008

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164

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Art Unit: 2164

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